

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| IN RE: ATMOS ENERGY CORPORATION | DOCKET NO. WRU-04-7-222 |
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ORDER GRANTING LIMITED WAIVER

(Issued February 25, 2004)

On February 16, 2004, Atmos Energy Corporation (Atmos) filed with the Utilities Board (Board) an application for a limited waiver of the March 1, 2004, compliance filing deadline in 199 IAC 35.12(2). Atmos asks that the Board grant it until April 1, 2004, to file the energy efficiency cost recovery factors to be used in establishing Atmos's energy efficiency costs proposed to be recovered in rates for the subsequent 12-month period.

The Board's rules identify four factors the Board must consider when reviewing a waiver request. 199 IAC 1.3. In support of its request, Atmos addresses each of the four factors. Atmos asserts that filing the information by March 1, 2004, would require Atmos to estimate winter recovery amounts and the expense of estimating and then truing up to the actual recovery amounts next year would be unduly burdensome. Atmos states there would be minimal impact on customers if the existing energy efficiency factors are allowed to remain in effect until April 1, 2004.

Atmos further states that the waiver will not prejudice the substantial legal rights of any person. The purpose of the rule is to put current accurate energy efficiency cost recovery factors into rates for the subsequent 12-month recovery

period. Atmos states that a waiver until April 1, 2004, would not be inconsistent with this purpose and the delay does not affect the substantial legal rights of any person.

Atmos states that subrule 199 IAC 35.12(2) is designed to implement Iowa Code §§ 476.1, 476.6, and 476.10A (2003), but is not specifically mandated by statute. Atmos states that the Board has broad discretion on the implementation of these statutes and the waiver does not violate any specific statutory provision. Finally, Atmos states that substantially equal protection of public health, safety, and welfare will be afforded by means other than that prescribed in the subrule.

The Board has considered the waiver request and the four factors required by 199 IAC 1.3. Based upon that review, the Board finds that the four factors have been met for granting Atmos a limited waiver of the March 1, 2004, filing deadline. The Board will allow Atmos until April 1, 2004, to make the filing required by 199 IAC 35.12.

IT IS THEREFORE ORDERED:

Atmos Energy Corporation is granted a limited waiver of the energy efficiency cost information required by 199 IAC 35.12(2) from March 1, 2004, to April 1, 2004.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 25th day of February, 2004.